

OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION

MINUTES OF A MEETING HELD JUNE 14, 2012

*Revised Pursuant to Planning Commission – June 28, 2012*

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**Agenda**

**PUBLIC HEARING – EXTENDICARE HEALTH SERVICES, INC. – SPECIAL EXCEPTION USE REVIEW TO ALLOW FOR EXPANSION OF THE BUILDING AND PARKING LOT OF EXISTING TENDERCARE NURSING CARE CENTER – 1701 S. 11<sup>TH</sup> STREET IN THE “C” LOCAL BUSINESS DISTRICT - (PARCEL NO. 3905-25-205-020)**

**PUBLIC HEARING – AMERICAN EAGLE INC., d/b/a BIG FIREWORKS – SPECIAL EXCEPTION USE REVIEW TO ALLOW FOR TEMPORARY OUTDOOR SALES EVENT FOR MORE THAN ONE DAY AT 6800 W. MAIN STREET IN THE “C” LOCAL BUSINESS DISTRICT – (PARCEL NO. 3905-14-155-029)**

**DISCUSSION OF POTENTIAL ZONING ORDINANCE AMENDMENTS TO SIGNAGE REQUIREMENTS IN VILLAGE FORM BASED CODE OVERLAY DISTRICT**

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A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, June 14, 2012, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Kitty Gelling, Chairperson  
Carl Benson  
Dave Bushouse  
Millard Loy  
Bob Anderson  
Richard Skalski  
Wiley Boulding, Sr.

MEMBERS ABSENT: None

Also present were Greg Milliken, Planning Director; Attorney James Porter, and approximately two other interested persons.

**Call to Order and Pledge of Allegiance**

The Chairperson called the meeting to order at approximately 7:00 p.m., and the “Pledge of Allegiance” was recited.

## **Agenda**

The Chairperson asked if there were any changes, additions or deletions to the Agenda. Hearing none, she called for a motion to approve the Agenda. Mr. Boulding, Sr. made a motion to approve the Agenda, as submitted. Mr. Skalski seconded the motion. The Chairperson called for a vote on the motion, and the motion passed unanimously.

## **Public Comment on Non-Agenda Items**

The Chairperson said the next item up for consideration was public comment on Non-Agenda items. Hearing none, she asked that the Planning Commission proceed to the next Agenda item.

## **Approve Minutes**

The Chairperson asked if everyone had a chance to review the May 24, 2012 minutes and asked if there were any requested changes. Hearing none, she called for a motion. Mr. Benson made a motion to approve the minutes, as submitted. The motion was seconded by Mr. Skalski. The Chairperson called for a vote on the motion, and the motion passed unanimously.

## **PUBLIC HEARING – EXTENDICARE HEALTH SERVICES, INC. – SPECIAL EXCEPTION USE REVIEW TO ALLOW FOR EXPANSION OF BUILDING AND PARKING LOT OF EXISTING TENDERCARE NURSING CARE CENTER – 1701 S. 11<sup>TH</sup> STREET IN THE “C” LOCAL BUSINESS DISTRICT - (PARCEL NO. 3905-25-205-020)**

The Chairperson said the next item on the Agenda was a public hearing to consider a special exception use review of Extendicare Health Services, Inc. to allow for the expansion of its building and parking lot of an existing nursing care center located at 1701 South 11<sup>th</sup> Street in the “C” Local Business District, Parcel No. 3905-25-205-020. The Chairperson asked to hear from the Planning Department. Mr. Greg Milliken submitted his report to the Planning Commission dated June 14, 2012, and the same is incorporated herein by reference.

Mr. Milliken explained that the applicant was seeking to make a small addition to the subject facility, as well as make an addition to their existing parking lot on the east side of the building. He said that the addition was being requested to construct a therapy room for residents and would not result in any increase in residency. He noted that the parking lot expansion had been requested earlier as a separate project, and the Planning Department had asked that they incorporate that request into the site plan review for the building expansion.

Mr. Milliken said he wanted to highlight the engineer's comments. He noted that the engineer was a bit concerned about drainage issues if there was a large storm event. He said, because the adjacent property was currently vacant, he was not overly concerned, but he wanted to make sure if there was any future development, and water was a problem on the property to the south of the subject property, that it be addressed. He, therefore, suggested that matter be a condition of granting the special exception use.

Planning Director Milliken proceeded to take the Commission through the Standards of Review of Section 60.100 of the Zoning Ordinance as more fully set forth in his report and incorporated herein by reference. Mr. Milliken concluded with his recommendation.

The Chairperson asked if there were any questions of the Planning Director.

Mr. Benson asked why they were adding additional parking if they were not adding patients. Mr. Milliken suggested that was a question best asked of the applicant.

Mr. Skalski asked if anyone had spoken to Western Michigan University since the University owned the land to the south. Mr. Milliken indicated that he had not.

The Chairperson asked to hear from the applicant.

Mr. Richard Postema introduced himself to the Planning Commission on behalf of Tendercare of Kalamazoo. He said he would try to address the questions which had been raised. He first stated that his client had agreed to all of the conditions which the Planning Director had put in his report. He also noted that they had widened the drive as requested, and he provided an updated site plan showing the widened drive.

Mr. Postema said the additional parking was being installed to allow for better changeover during staff shift changes. He said he also thought more people were visiting, and they needed additional parking to accommodate those visitors.

The Chairperson asked for clarification on whether the new drive was 24 feet wide as requested. Mr. Postema indicated that it was.

Mr. Anderson asked about water run-off problems at the site. Mr. Postema said he was not aware of any except what was put in the staff report. He said they would agree to correct any future water run-off problems if they arose.

Mr. Skalski asked if they were on-site grading, if it would be easier to expand the basin at the present time. Mr. Postema said his client preferred not to do it at this time since they had not had any problems in recent history.

The Chairperson asked when this project might be started and completed. Mr. Postema said they would like to begin this summer. He said he thought it would take ten months to a year to complete the entire project.

The Chairperson asked if there were other questions.

Mr. Benson asked whether storm water had to be retained on site. Attorney Porter stated generally it did. He later noted that, technically, water could leave the site, but not at a greater rate than what it did when the property was in its natural state. He said the Township's Ordinance did prohibit any increase in run-off.

The Chairperson noted that there had not been any problems raised since the early 1990's. Attorney Porter said that it might have had to do with the fact that, when the building was newly constructed, its soils had not settled, and ground cover had not been established, which could have exacerbated water run-off issues.

Mr. Bushouse noted that the parking in the rear would actually help fire access if it was needed. He did, however, express concern about the applicant keeping the water on site, but since the Township had not noted any recent complaints, he did not think it was necessary to address that issue at his time, provided the applicant would agree to deal with the matter in the future.

Mr. Anderson said he could approve the project, provided the applicant was willing to deal with future water run-off issues.

Mr. Benson said he was concerned about water run-off, but ~~given that the land was currently vacant,~~ he was not unduly concerned **given that the drainage system would be altered when the property to the south was developed.**

Mr. Skalski said if there were future problems, he agreed with the conditions recommended by the engineer and the planner that the developer be held responsible for any future remediation of water problems.

Mr. Boulding, Sr. said he was comfortable under the conditions expressed and could move forward, and Mr. Loy agreed, as did the Chairperson.

The Chairperson called for public comment. Hearing none, she indicated that she would entertain a motion. Mr. Skalski made a motion to approve the special exception use for an expansion at the Tendercare Nursing Care Center and for parking lot extension on the east side of the building, subject to the following conditions:

1. The drive aisle within the expanded parking lot area shall be widened to at least 24 feet (already accomplished).
2. The drainage system shall be altered to ensure all drainage is maintained on site at the point in time when the property to the south is developed.

3. Site plan approval is subject to the approval of the Fire Department, pursuant to adopted codes.
4. Site plan approval is subject to the review and acceptance of the Township Engineer as adequate.
5. Based upon the Township Engineer's recommendation that any future water run-off issues affecting the property to the south of the subject property be addressed immediately by the applicant.

Mr. Loy seconded the motion. The Chairperson called for further discussion. Hearing none, she called for a vote on the motion, and the motion passed unanimously.

**PUBLIC HEARING – AMERICAN EAGLE INC., d/b/a BIG FIREWORKS – SPECIAL EXCEPTION USE REVIEW TO ALLOW FOR TEMPORARY OUTDOOR SALES EVENT FOR MORE THAN ONE DAY AT 6800 W. MAIN STREET IN THE “C” LOCAL BUSINESS DISTRICT – (PARCEL NO. 3905-14-155-029)**

The Chairperson indicated the next item for discussion was the special exception use review of the applicant, American Eagle Inc., d/b/a Big Fireworks, to allow for a temporary outdoor sales event lasting more than one day to be located at 6800 West Main Street in the “C” Local Business District, Parcel No. 3905-14-155-029. The Chairperson asked to hear from Planning Director Greg Milliken. Mr. Milliken submitted his report dated June 14, 2012, to the Planning Commission, and the same is incorporated herein by reference.

Mr. Milliken explained that the applicant was seeking a special exception use pursuant to Section 30.221 for a temporary outdoor event. He said the applicant was seeking to operate commercial fireworks sales from a 30' x 45' pole tent from June 22, 2012, to July 7, 2012. The tent would be torn down on July 8, 2012. He explained the location on an overhead screen to the Planning Commission, but noted that there were some issues with landscape trees in the area and that there might have to be some adjustments in the location of the tent.

Mr. Milliken stated the applicant was proposing to set up the tent on June 21, 2012, and be open from 9 a.m. to 9 p.m. starting June 22, with security on site at night. He noted that the applicant had provided a flame retardant certificate for the tent and was posting No Smoking Signs and fire extinguishers as requested by the Fire Department. Mr. Milliken proceeded to take the Commission through a review of the provisions of Section 60.100, as more fully set forth in his report.

The Chairperson asked if there were any questions of the applicant **Mr. Milliken**.

The Chairperson began by asking how they were going to cordon off the restricted parking area. Mr. Milliken suggested that was a question which could best be answered by the applicant.

Mr. Boulding, Sr. asked if the area chosen on the west side of the parking lot was too close to the catch basin and whether the pitch of the land would make it difficult to place a tent in that area. Mr. Milliken said he did not think it sloped significantly and thought it was level enough to pitch a tent in the area.

Mr. Boulding, Sr. asked if the tent would encroach upon, or be too close to the road to the west. Mr. Milliken said he thought, since the tent was only 30 feet wide, that the tent would fit within the grassy area west of the parking lot, and not interfere with the road. Mr. Boulding, Sr. asked how far it would be from the traveling portion of the road to the west. Mr. Milliken said he thought 30 or 40 feet.

The Chairperson asked to hear from the applicant.

The applicant, Sean Conn, introduced himself, on behalf of American Eagle, Inc., d/b/a Big Fireworks, to the Planning Commission. Mr. Conn said he had visited the site earlier in the day since his company had contracted to sell fireworks to all of the Menards in the state. He said that the representative who had chosen the proposed location was from Minnesota and had chosen the location based upon a simple review of the aerials. However, when he arrived, he noted that there was a line of landscaping trees which had been planted, and that might present a problem. He suggested if they could not locate on the grassy area to the west of the parking lot, that they could possibly put up a frame tent on a paved portion of the parking area, or he could move the tent further to the south where there was a bit more room. He suggested, as an alternate site, the entrance area near 9<sup>th</sup> Street.

The Chairperson asked if they damaged any of the landscaping or trees whether his company would be agreeable to having them replaced. Mr. Conn said he would absolutely agree to their replacement. He said he wanted to be a good neighbor in the community and wanted to be able to come back here year after year and would not want to damage Menards' property or his company's reputation in the community.

Mr. Skalski said he thought the area to the east was too close to the 9<sup>th</sup> Street entrance and would allow very little parking so he thought that would be a very poor location for the proposed operation. The Chairperson said she had to agree, ingress and egress from 9<sup>th</sup> Street would be extremely difficult.

Mr. Loy asked about parking east of the tent. He said his only concern was the fact that the trucks accessing the site for the lumber yard and shipping and receiving use that drive aisle to access the yard area.

Mr. Conn said he did notice the trucks, and the idea of actually setting up in the parking lot would not work, and he agreed to abandon that idea.

There was a discussion regarding the tent and whether it should be staked or held down by weights. Mr. Boulding, Sr. strongly suggested that the tent be staked down, not held by any type of weight device. Mr. Porter stated that, unlike the fireworks vendor using Meijer's parking lot where stakes are used, Menards does not allow stakes in the parking lot. Mr. Conn said they used water barrels with a wind rating of 48 M.P.H.

The Chairperson asked if there was any public comment. Hearing none, she called for Planning Commission deliberations.

Mr. Loy said he could agree to approve the special use, provided that **the** applicant leaves adequate room for the trucks entering and exiting the site.

Mr. Boulding, Sr. said he was comfortable with the proposal, provided they used the appropriate size tent to fit the site. Mr. Conn said they used American Rental out of Lansing, and they could choose another size tent, if necessary, such as a 20' x 40' pole tent.

Mr. Skalski said he was comfortable with the proposal.

Mr. Benson said he was concerned about the contractors coming to and from the site, but after considering the fact that many of them do this during the early morning hours, he was comfortable with the proposal.

Mr. Anderson said he did not have a problem with the proposal.

The Chairperson said she was comfortable with the proposal, and said she would propose a motion. The Chairperson made a motion to approve the application of American Eagle Inc., d/b/a Big Fireworks, for a temporary outdoor sales event lasting more than one day upon the following conditions:

1. A copy of the Michigan State License for Firework Sales is provided (already accomplished).
2. Comply with the comments from the Fire Marshall regarding "No Smoking Signs" and fire extinguishers and any other requirements that may be raised during the course of their review.
3. Any signage shall require a temporary sign permit in conformance with the standards of the Township Zoning Ordinance.

4. It would be their responsibility if there were any trees and/or landscape damaged or ruined, and they would be replaced in the same condition in which they were before the event.
5. The Planning Director shall be given the latitude and discretion to move the location of the tent, if necessary.
6. In the future, the applicant's special use request be allowed to be approved by Planning Department staff.

The motion was seconded by Mr. Skalski. The Chairperson called for a vote on the motion, and the motion passed unanimously.

### **DISCUSSION OF POTENTIAL ZONING ORDINANCE AMENDMENTS TO SIGNAGE REQUIREMENTS IN VILLAGE FORM BASED CODE OVERLAY DISTRICT**

Mr. Milliken presented a portion of Section 34.600 dealing with monument signs in the Overlay District. He said that a question had been raised by several property owners about the inability to have a second sign, if they had a double-frontage lot or corner lot, and he wondered if the Commission wanted to consider changing the Zoning Ordinance. Mr. Milliken said he understood this was a modifiable standard, but wondered if the text should be changed so as to not always require the Planning Commission action to modify it. He was looking for feedback from the Planning Commission members.

The Chairperson said she was comfortable with changing the text and would like to see some proposed language.

Mr. Skalski said his only concern would be if the secondary frontage was extremely short and whether that should warrant another sign.

Mr. Loy, Mr. Boulding, Sr. and Mr. Benson said they would be willing to look at a proposed text change.

Mr. Anderson said he would be willing to look at a proposed draft.

Mr. Bushouse expressed some reservation. He said, in the past, they had limited certain locations such as the Speedway, the Shell Station, and Taco Bell to a single sign, and he thought those properties should be looked at before they made any significant changes to the Zoning Ordinance.

Mr. Milliken thanked the Planning Commissioners for their input. He said he would work on a proposed text change after considering the issues which had been raised, and bring the matter back to the Commission at a later date.

## **Old Business**

The Chairperson asked if there was any old business. Hearing none, she asked the Commission to proceed with any other business.

## **Any Other Business**

The Chairperson distributed an Emergency Contact form to the Planning Commission members. She said, if they wanted to, they could complete the form and place it in a sealed envelope to be kept by the Planning Director so if there were any medical problems in the future, emergency contact could be addressed more quickly. She noted, however, that this matter was purely at their discretion.

Mr. Benson asked if they had a privacy policy. Attorney Porter indicated that they did, and it could be obtained through the Township Clerk.

## **Planning Commissioner Comments**

The Chairperson asked for Planning Commissioner comments.

Mr. Bushouse raised a concern over Hustead Farms and the number of signs they were permitted and whether they were being treated similarly to Verhage Farms. He expressed a desire to see uniform enforcement.

Mr. Benson raised a concern over the number of signs he saw at Dougherty's Corners Market.

The Chairperson wished Mr. Anderson and his wife a "Happy Anniversary."

Mr. Skalski raised an issue regarding car sales. Attorney Porter noted that matter was being addressed by the Zoning Administrator.

Mr. Boulding, Sr. expressed concerns over ITC's plans to move forward with the high power line.

Mr. Milliken told the Commission that the next meeting on June 28 would be a fairly lengthy one and noted the items coming up for consideration.

## **Adjournment**

There being no further matters to come before the Planning Commission, and having exhausted the agenda, the meeting was adjourned by the Chairperson at approximately 8:10 p.m.

Minutes Prepared:  
June 18, 2012

Minutes Approved:  
June 28, 2012